

SIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1125 of 2007

Anjammal .. Petitioner

Vs

1. State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition & Excise Dept.,
Fort St. George, Chennai-9.
2. The District Judicial Magistrate
and District Collector,
Nagapattinam District, Nagapattinam. .. Respondents

Petition filed under Article 226 of the Constitution of India
for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.M.P.Raja Velayutham

For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, mother of the detenu, by name Metha @ Anbarasan, challenges the order of detention dated 3.5.2007, passed against her son by the second respondent in C.O.C.No.17/2007, branding him as 'Goonda' under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), seeking to quash the same and direct the respondents to produce the detenu, now confined at Central Prison, Trichy, before this Court and set him at liberty.

2. The impugned order of detention was passed resting on the ground case registered in Crime No.164 of 2007 on the file of Vedaranyam Police Station for offences punishable under Sections 332, 506(ii) and 307 I.P.C., pursuant to the complaint lodged by one Kulandaivelu, the Head Constable attached to Vedaranyam Police Station. In the complaint, it is stated that on 21.4.2007, he along with the Inspector of Police and other police personnels, were on a hunt for an absconding accused and that when he searched alone, the detenu suddenly pounced on him from a bush and when he fell down, the detenu, sitting on his body, attempted to strangle his neck and in the melee, the head constable sustained bleeding injuries and when the other police personnel came to his rescue on hearing the hue and cry, the detenu took to his heels and escaped. During investigation, the detenu was arrested and produced before the Court for remanding him into judicial custody.

3. Taking into consideration the above said ground case as well as four adverse cases on the file of same police station, viz. in Crime Nos.47 of 2005 for offences punishable under Sections 294(b), 324, 506(ii) IPC., 18 of 2005 for offences under Sections 342, 294(b), 326, 506(ii) IPC., 427 of 2006 for offences under Sections 435 and 506(i) IPC. and 156 of 2007 for offences under Sections 294(b), 323, 436, 506(i) IPC., the second respondent, having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a 'Goonda'.

4. The learned counsel for the petitioner, relying upon the two affidavits placed before the Advisory Board by the detenu in person along with his representation dated 4.6.2007, submits that there is vital contradiction with regard to the time and manner in which the detenu was arrested and this contradiction has not been considered by the Government while rejecting the representation of the detenu by order dated 26.6.2007, which vitiates the impugned order of detention.

5. We have perused the two affidavits placed before us. Concededly, the two affidavits dated 4.6.2007, one filed by Subramanian, Vice-President of Town Panchayat, Vedaranyan Taluk, Nagapattinam District and the other filed by one Sadasivam, Ex-President of the said Panchayat, were placed before the Advisory Board by the detenu himself, disputing the time and manner in which he was arrested. As per the affidavits, the detenu was produced by the said Subramanian and Sathasivam even at 8.00 a.m. on 21.4.2007, but whereas in the grounds of detention, we find that after the registration of the crime, the detenu was arrested

at about 18.30 hours during the course of investigation. The Government, while rejecting the representation of the detenu, has not at all taken into consideration the above affidavits filed on behalf of the detenu disputing the time and manner in which the detenu was actually arrested, which throws a doubt as to the very arrest of the detenu on 21.4.2007 at 18.30 hours, as stated in the grounds of detention. For this reason, we are inclined to allow this petition.

In the result, the order of detention is quashed and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sra

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary, Government of Tamil Nadu,
Home, Prohibition & Excise Dept.,
Fort St. George, Chennai-9.
 2. The District Judicial Magistrate
and District Collector,
Nagapattinam District, Nagapattinam.
 3. The Superintendent,
Central Prison, Trichy.
 4. The Joint Secretary
to the Government of Tamil Nadu,
Public (Law and Order) Department,
Fort St George, Chennai 9.
 5. The Public Prosecutor, High Court, Madras.
- 1 cc to Mr. R. Muruga Bharathi, Advocate SR No. 67439

VSV(CO)
SR/29.11.2007

H.C.P.No.1125 of 2007